

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WESLEY XAVIER BROWN,

Plaintiff,

v.

No. 13-cv-0549 MCA/SMV

CUDD PUMPING SERVS., INC.,

Defendant.

ORDER TO PAY PLAINTIFF'S REASONABLE EXPENSES

THIS MATTER is before the Court on Plaintiff's counsel's Affidavit in Support of Award of Expenses [Doc. 54] ("Affidavit"), filed on August 1, 2014. Defendant responded in opposition on August 11, 2014. [Doc. 55]. Plaintiff replied on August 18, 2014. [Doc. 57]. The Court, having considered the briefing, the record, the relevant law and being otherwise fully advised in the premises, shall order Defendant to pay Plaintiff's reasonable expenses in the amount of \$2,000.

On May 19, 2014, Plaintiff filed his Opposed Motion to Compel [Doc. 46] ("Motion"), seeking supplemental answers to certain interrogatories and requests for production. The parties briefed the matter, and the Court heard oral argument on July 23, 2014. [Docs. 46, 47, 48, 52]. On July 31, 2014, the Court found that the bulk of Plaintiff's motion was meritorious and ordered Defendant to supplement its answers. [Doc. 53] at 2. The Court also found that Defendant's objections were not substantially justified and that Defendant had presented no circumstances indicating that award of reasonable expenses would be unjust. *Id.* at 1.

Accordingly, the Court ordered Defendant to pay Plaintiff's reasonable expenses in preparing and presenting the motion, pursuant to Fed. R. Civ. P. 37(a)(5)(C).

As ordered, Plaintiff's counsel filed an affidavit reflecting Plaintiff's expenses and attorney fees incurred in making the motion. [Doc. 54]. Counsel reported spending eight hours at a rate of \$350 per hour. *Id.* Accordingly, Plaintiff requested an award in the amount of \$2,800. *Id.* Defendant does not object to the number of hours requested, but it does object to the hourly rate. [Doc. 55]. Defendant argues that \$350 per hour is unreasonable and does not adequately reflect the rates of other attorneys in this area with similar levels of expertise in employment/labor law. *Id.* Thus, Plaintiff should be awarded less than the requested \$2,800. *Id.* Plaintiff replies with citations to orders from other judges in this district awarding hourly fees of \$325 to \$350. [Doc. 57] at 2.

The Court finds that an hourly rate of \$250 is reasonable under the circumstances. Therefore, the Court will order Defendant to pay Plaintiff's reasonable expenses and attorney fees in the amount of \$2,000.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant shall pay \$2,000 to Plaintiff pursuant to Fed. R. Civ. P. 37(a)(5)(C) within 30 days.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge